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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,241	11/13/2003	Michael Darnell Garner		2449

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Michael D. Garner Jr.
119 Crab Apple Road
Huntsville, AL 35811

EXAMINER

NORMAN, MARC E

ART UNIT	PAPER NUMBER
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3744

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/714,241

Applicant(s)

GARNER, MICHAEL DARNELL

Examiner

Marc E. Norman

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 September 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7,9,10 and 12 is/are pending in the application.
 - 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,10 and 12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 - Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 - Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some * c) ☐ None of:
 - 1. ☐ Certified copies of the priority documents have been received.
 - 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 - 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Preliminary Comments

The Examiner would like to acknowledge the various procedural problems and expenses that the Applicant experienced throughout the prosecution of this case, as well as Applicant's sincere efforts to obtain a patent. However, for the reasons set forth below, Applicant's invention is not patentable. Should Applicant wish to appeal this decision, or wish to file further applications with the USPTO, the Examiner strongly suggests Applicant retain the services of an attorney. While such is not required, the Examiner believes it would greatly benefit Applicant in navigating what is essentially a legal process.

Response to Arguments

Applicant's arguments filed 29 September 2006 have been fully considered but they are not persuasive. Applicant sets forth arguments regarding claims 6, 12, and 10, respectively. Each argument is addressed in turn below.

Claim 6

Applicant argues that the claim distinguishes over Harris et al. in that it is "fully customizable". However, such a term is extremely vague, and does not clearly delineate the metes and bounds of the invention. The claim does mention examples of what might be included in such a customization, including weather changes, timing, and indoor and outdoor temperature

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sensors. As mere examples of features of a general system, these features are old and well known in the art. For example, the previously cited Gudmunsen reference teaches a parked car thermal control system that is customizable and operates based on weather changes (as measured by outside temperature sensor T2), timing (as controlled by timer T), and indoor and outdoor temperature sensors (T1 and T2) (see for example column 6, lines 26-34). Such types of controls and many other ways of customizing AC systems are old and well known and would have been obvious to apply to the system of Harris et al. for the purpose of providing desirable cooling control for the user.

Claim 12

Applicant argues that Harris et al. does not explain how the jumpstart mechanism is integrated or whether or not it requires jumper cables. However, at column 4, lines 3-12, Harris et al. does in fact give such details. The jumpstart is initiated by pressing button 41, without requiring any jumper cables.

Claim 10

Applicant argues that his system can be used with other energy sources besides just solar power. However, Applicant simply listed several potential sources as examples. The prior art only needs to show one of those sources to read on the claim. However, for the purpose of completeness, it is known to use fuel cells to power an air conditioning system when a vehicle is

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turned off (see for example column 6, line 16 of the enclosed Zeigler et al reference). Further, one cannot obtain a patent based on something that is open ended and has not yet been imagined, such as where Applicant states "any other power source current or future".

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4-6, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Harris et al.

In view of the response to arguments above, the rejections of these claims as set forth in the previous Office Action are carried forward and maintained.

Claim 3 is rejected under 35 U.S.C. 102(b) as being anticipated by D'Agaro.

The rejection of this claim as set forth in the previous Office Action is carried forward and maintained.

Claims 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Fischler.

The rejection of these claims as set forth in the previous Office Action are carried forward and maintained.

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harris et al. in view alternatively of Kortum or Howard.

In view of the response to arguments above, the rejection of this claim as set forth in the previous Office Action is carried forward and maintained.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc E. Norman whose telephone number is 571-272-4812. The examiner can normally be reached on Mon.-Fri., 8:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MN



MARC NORMAN
PRIMARY EXAMINER